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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC SOCIAL AND CULTURAL RIGHTS

Second periodic reports submitted by States parties to the Covenant concerning rights covered by articles 13 to 15, in accordance with the third stage of the programme established by the Economic and Social Council in its resolution 1988 (LX)

Addendum

GERMANY*

[8 January 1992]

I. ARTICLE 13. RIGHT TO EDUCATION

A. Legal basis

1. With regard to the legal basis of the right to education, namely, the Basic Law, the Land constitutions and the education acts, the reader is referred to the initial report submitted by the Federal Republic of Germany in 1982 (E/1982/3/Add.14).

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* The initial report submitted by the Government of the Federal Republic of Germany on rights covered by articles 13 to 15 of the Covenant (E/1982/3/Add.14) was considered by the Sessional Working Group of Governmental Experts at its 1982 session (see E/1982/WG.1/SR.17-18). The initial report submitted by the Government of the German Democratic Republic on rights covered by articles 13 to 15 of the Covenant (E/1982/3/Add.15 and Corr.1) was considered by the Sessional Working Group of Governmental Experts at its 1983 session (see E/1983/WG.1/SR.5-6).

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2. We give below some examples of the legislation in force at the national level and at the Land level:

(a) The right of every child and every adolescent to education and training is guaranteed by the Basic Law (art. 2, 12);

(b) The Constitution of the Land of Baden-Württemberg states that any young person, irrespective of his origin or economic situation, is entitled to education and training in accordance with his capacities (art. 11);

(c) The Constitution of the Land of North Rhine-Westphalia provides that all children are entitled to education and training; the community must ensure that schooling is suited to the country's cultural and social needs (art. 8);

(d) The education act of the free Hanseatic city of Bremen states that the schools must enable each pupil to exercise his right to education; the duty to provide education and training enshrined in the Constitution of the Land is an imperative principle for schools. The organization of the schools must enable each pupil to make as much progress as possible, with the aim of developing his capacities and enabling him to act responsibly in his personal and working life and in society (art. 2, para. 1);

(e) According to the education act of the Land of Rhine-Palatinate, the task of the schools is determined by the right of the individual to pursue his inclinations and develop his abilities and by the requirement of the State and of society that citizens be duly prepared to exercise their rights and fulfil their duties (art. 1).

B. Measures taken to promote the full realization of the right of everyone to education

3. Development of the human personality, respect for human rights and fundamental freedoms, the useful role of every person in a free society, and tolerance and friendship among nations and all racial, ethnic and religious groups are part of the aims of school education and are stated in the Basic Law. Many measures have been adopted to achieve these ends, but no more than a brief review of them can be given in this report.

4. The development of the human personality and the sense of its dignity are promoted by a fairly differentiated choice of educational opportunities, ranging from pre-school education to further education. The educational system thus enables persons of all age groups to learn and to acquire qualifications. It also offers the possibility for adults to catch up on school certificates - for example, during working life. Pupils and students, as a matter of principle, participate in the responsibilities and organization of the educational system. In October 1968, the Standing Conference of Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany made the following statement on this subject: "The school system will be able to perform its task of preparing young people for life in a democratic society only if pupils learn at an early stage to set themselves tasks, to exercise rights and to carry out duties, taking responsibility for their actions. Pupils' co-responsibility is accordingly a fundamental principle of the school system, which is equally binding not just on pupils,

teachers, principals and inspectors, but also on parents. The principle of pupils' co-responsibility is applied at all schools in all the Länder of the Federal Republic of Germany through appropriate organizational arrangements (election of pupils' representatives), and by creating the necessary preconditions for an effective participation and co-responsibility.

5. The strengthening of respect for human rights and fundamental freedoms, the ability of the individual to exercise his rights and duties in a free society, the promotion of understanding, tolerance and friendship among the nations and among the racial, ethnic or religious groups are objectives explicitly laid down in school curricula, particularly for social sciences, civic education and history.

6. Thus under the programme of civic education in the first cycle of secondary education (from the seventh to the tenth years of schooling), all types of educational establishments (sixth-form colleges, comprehensive schools, grammar schools) are to promote the following abilities and patterns of behaviour:

(a) Ability and desire to exercise the right to order one's own life on the basis of responsibility towards society;

(b) Ability and desire to find one's own bearings, to develop one's own judgement, to assert oneself and to communicate in a society where public opinion is largely determined by the media;

(c) Ability and desire to participate in economic and working life and to represent and defend interests in an appropriate manner while doing so;

(d) Ability and desire to assume social responsibilities for the identification and solution of social problems while respecting individual freedom and social justice;

(e) Ability and desire to defend one's own rights and those of others and to resolve conflicts with respect for the legal order in a free State governed by the rule of law;

(f) Ability and desire to maintain a critical respect for the rules and institutions of the political order;

(g) Ability and desire to weigh interests in bilateral and international relations on a basis of peace, the right of self-determination, social justice and international cooperation.

7. As an example we may cite the social science programme for first cycle secondary schools in the Land of North Rhine-Westphalia: "The pupil must develop the ability and desire to order his own life and develop his right to participate, these being the expression of the free development of his personality; he must be enabled to play an active part in the decision-making processes in society as a consequence of the democratic approach." In this curriculum one of the objectives of prime importance is the following: "The pupil must understand that every individual needs the necessary scope for

personal development and for ordering his own life, while remaining attached and devoted to society. He must be able and want to win such scope for himself and to allow others to do the same."

8. In order to make sure that access to the manifold types of education offered is not barred by financial obstacles, education at all State schools and universities is free of charge. In addition, article 7, paragraph 4, of the Basic Law guarantees the right to establish and run private schools: this term refers to schools set up and run on a basis of private enterprise. In view of the fact that State education is free, fees may be charged for attendance at such a private educational institution only in so far as "a segregation of the pupils in accordance with the (financial) means of the parents is not fostered".

C. Right to primary education

9. One hundred per cent of children attend primary school. Their education is free. Moreover, teaching material used in primary schools may be borrowed by the pupils or is given to them free of cost. Where villages in rural areas have no school of their own, school bus transport is provided.

10. Schools in the different Länder are also attended by many children of migrant workers; these children have the same rights and obligations as German children. Because of their language problems and their particular cultural situation, the children of migrant workers often find it more difficult to adapt to the school environment and other circumstances. They are often still rooted in the cultural tradition of their parents' countries of origin and they do not necessarily get the same encouragement at home as children in German families. The following are some of the measures taken with a view to overcoming these difficulties:

(a) Establishment of preparatory classes, with both the mother tongue and German as teaching languages, in order to prepare foreign children for their full integration into mixed German and foreign classes;

(b) The establishment of promotion classes and intensive courses;

(c) Supporting measures outside school such as homework assistance, play afternoons, etc.;

(d) Development of suitable teaching material for foreign pupils;

(e) Recruitment of teachers from the countries of origin of migrant workers;

(f) Further training for German teachers which takes account of the special educational and didactic problems of teaching foreign children.

D. Right to secondary education

11. Mention has already been made of the steps taken to give all pupils access to education, regardless of their financial situation, and hence also

to secondary education. It should be stressed once again that education is free and that pupils are entitled to financial assistance if they fulfil the requirements.

12. Provision has been made in the general secondary school system to enable pupils to change from one type of school to another without any loss of time and consequent misdevelopments (the establishment of orientation levels and transfer possibilities in all grades).

13. Full-time vocational schools are open to everyone who meets the requirements for admission (compulsory education leaving certificate, Hauptschulabschluss, leaving certificate for first cycle of secondary education, Realschulabschluss, or appropriate working experience).

14. Progress has been made with the policy for the integration of foreigners duly established in Germany into second-cycle education, in the case of second and third generation foreigners. The number of young people in secondary education (Realschule or Gymnasium) is steadily rising.

E. Right to higher education

15. Any German national is entitled to pursue higher education of his choice on condition that he has the necessary qualifications for access; evidence of such qualifications is the certificate awarded at the end of school education preparing the pupil for higher education.

16. In order to qualify for access to a German university, foreigners must furnish proof of a secondary school-leaving certificate recognized as being equivalent to the German Abitur, and in some cases must pass an additional examination. Moreover, foreigners must have a reasonable knowledge of German. In order to be admitted to a technical university (Fachhochschule), foreigners must have a certificate at least equivalent to the German certificate qualifying for entry to a technical university (Fachhochschulereife), as well as a sufficient knowledge of German.

17. As a result of intensive efforts to encourage education and development of the educational system, the proportion of pupils in an age group who qualified for access to higher education rose from 8 per cent in 1965 to about 30 per cent in 1988. The vocational training given at technical schools (Fachoberschule) or other secondary vocational training institutions leading on to higher technical education is one factor among others that plays an important role here. As a general rule, it is necessary to have followed full-time education for 12 years and to have obtained a leaving certificate from a technical school in order to have access to a higher technical institution. A leaving certificate from a higher technical institution entitles the holder to continue his studies at a university or equivalent higher institution.

18. In principle, any candidate who fulfils the conditions for access is generally admitted to non-fee-paying universities. Only for certain subjects in which there are a large number of candidates are there national or local restrictions on registration. In 1985, the procedure for allocating places in subjects in which the number of candidates greatly exceeds the number of

places available was reorganized by the Higher Education Framework Law (Hochschulrahmengesetz). Since the winter term 1986/87, a new multiple-access selection system has been in force. Candidates are selected on the basis of their marks in the certificate qualifying them for access to higher education and the results of a centralized place-allocation procedure, consideration is also given to how long the candidate may have been waiting and to the results of selection interviews organized by the higher educational institution.

19. Since the mid-1980s, there has again been a considerable increase in the number of new students. In order to deal with the excessive demand in particularly popular subjects, the Federal Ministry of Education and Science launched a special university programme in 1988, financed by the State and the Länder. This major seven-year programme costing a total of some DM 2 billion is intended to expand the opportunities for study in subjects where there is particular pressure on places everywhere in Germany and to ensure the quality of research.

F. Right to fundamental education

20. In Germany there is virtually full compliance with the compulsory schooling requirement. However, there are always people who because of poor educational achievements or for other reasons have not sufficiently mastered the basic cultural techniques. For this category of people special adult educational courses are held at adult training centres, which receive financial support from the Federal and Land Governments.

21. The promotion of development at an early stage and the integration as well as the application of information and communication techniques to assist handicapped persons are the main focuses of the programmes that have been launched and encouraged by the Federal Ministry of Education and Science to improve the education of children and young handicapped persons in kindergartens and in schools. Orders have been given for the execution of research projects, the results of which will provide the basis in future for the promotion of educational measures to assist handicapped persons. In pilot projects, the possibility has been studied and tested of applying new techniques in the special schools for the different types of disabled persons, with a view to using them later on as aids to encourage handicapped persons.

22. The aim of Germany's policy with respect to foreigners, which is oriented towards vocational integration, is to allow or enable all young foreigners to receive, if possible, under the dual system, vocational training leading to a certificate or to obtain comparable or higher work skills. The number of young foreigners who have recently arrived in Germany with very little knowledge of German has declined since the last report. The proportion of foreign schoolchildren who attend an educational establishment at the elementary level and succeed in obtaining the certificate at the end of compulsory schooling is close to that of the German students, because they stay for extended periods and because they are offered specific assistance in the school system. However, special measures to help young foreigners make the transition from vocational training schools to working life are still necessary. Responsibility for measures to prepare them for working life and to integrate them into society (MBSE measures) which, up to 1987, were financed jointly by the Federal Employment Office, the Federal Government and

the Länder has now been taken over by the Federal Employment Office within the framework of the general pre-vocational programmes, which lasts 10 months. In most cases, young foreigners and young Germans are now taught and qualify together in mixed groups. The young foreigners who need specific assistance are given individual support; only the young foreigners who need even closer attention are placed in groups composed only of foreigners. Young people participating in the measures to prepare them for working life can also repeat the final examination at the end of their compulsory schooling. Young foreigners who have any particular gaps in their knowledge of language can attend intensive courses totalling a maximum of 640 hours even before commencing any pre-vocational training.

23. Young foreigners who are receiving vocational training under the dual system can receive, in the same way as Germans, under article 40(c) of the law to promote employment, additional assistance while in training (supportive measures, German courses and technical language courses, social and educational training and supervision). There are some inter-enterprise establishments which organize vocational training that is socially and educationally oriented to assist young foreigners in need of special encouragement. The number of young foreigners who undergo vocational training under the dual system has soared in recent years, from 45,200 at the end of 1983 to 73,200 at the end of 1988 (see the 1990 report of the Federal Government on Vocational training (Berufsbildungsbericht 1990) p. 121).

24. First generation foreigners may take both general and intensive language courses. Special language courses are also provided for women. These offer a baby-sitting service. Since 1986, there have also been language courses which include a literacy phase which, in the beginning, can also be given in the mother tongue. In order to facilitate the access of foreign workers to further education and retraining, specific support is offered to them to fill the gaps in their knowledge of German, their general schooling and basic vocational skills.

25. Compliance with compulsory education is difficult in the case of the children of "itinerant" families and the families of recently arrived migrant workers. In the case of the latter, if they did not enter the country illegally, compliance with compulsory education is merely delayed. But the non-sedentary families, who may wander across borders (such as the Roms or Gypsies) are not inclined to accept compulsory education and usually avoid any measure taken to compel them to send their children to school. However, the percentage of those groups in the total population is so small that statistically they are negligible.

26. In pursuing an educational policy that espouses the principle of equal opportunity and is designed to enable all young people to develop their talents to the fullest, by offering differentiated educational measures, the authorities cannot fail to encourage the highly talented young people. In all sectors of education therefore the Federal Government has strengthened measures to encourage particularly gifted and talented young people. At the university level, the encouragement of students, which for many years took the form of specific promotion measures, has received a fresh impetus and talented young people are now urged to study science. The concept of differentiation in professional training has also led to measures to encourage talented young

people in this sector of education. Furthermore, the Federal Government supports the national and international competitions which offer young people an opportunity to test and develop their individual gifts and abilities. The underlying principle of these competitions is that encouragement should be individual and adapted to the person's talents and they pose a special challenge to the most brilliant pupils to use their analytical and creative skills. International competitions such as the Students' Olympic Games have contributed mainly to establishing friendly relations between men and women of different nations and thus encouraging mutual understanding.

27. An information campaign conducted for several years by the Federal Government should help in eradicating the preconceived ideas and prejudices concerning the roles that girls and women can play in society, which block the entry of women to the technically oriented professions. The educational policy should attach great importance to changing attitudes to the choice of a profession and to widening the range of occupations and professions which women are able to enter. The disadvantages suffered by women in professional life will thus be reduced.

G. The development of a system of schools

28. The Federal Republic of Germany has a school system that is well designed and highly developed in all the Länder and at all the levels of education. By development is meant the constant adaptation of the existing system to the new demands of society and the world of work. School development planning is carried out primarily by the Länder and the municipalities. All the Länder have drawn up school development plans with a view not only to continuously adapting the school system to changing circumstances, but also to making constant improvements in the existing educational system. These school development plans provide both for the renovation of existing schools and for the building of new ones - as for example in the new urban centres - and also and above all for diversity in the branches of study offered in the different types of education, according to the number of pupils in the region concerned. Lastly, the school development plans also regulate the gradual introduction of certain innovations and seek continuously to improve the pupil-teacher ratio. These plans often form a part of interregional development plans (which involve several Länder).

29. Table 1 shows, as a percentage, the number of pupils who left the comprehensive schools between 1980 and 1988. The figures show clearly that the number of pupils holding a secondary school diploma entitling them to continue their studies (namely the certificate awarded after the first stage of secondary education, required for admission to the second stage, the diploma awarded at the end of secondary studies which qualifies them for entry to the higher technical institutions and the general baccalaureate which qualifies them for entry to the universities and other institutions of higher education) is increasing yearly. Similarly, the number of young people entitled to pursue higher studies expressed as a percentage of a resident German and foreign population of the same age (namely, the young people aged 18 to 21), rose, during the period from October 1980 to 1988, from 22.4 per cent to 29.8 per cent (table 2).

Table 1

Comprehensive schools: pupils who completed different stages of education
(percentage)

Qualification on leaving	1980	1983	1984	1985	1986	1987	1988
Pupils who left the school system at the end of the period of full-time compulsory schooling, without the certificate awarded at the end of compulsory schooling a/	7.2	6.0	5.6	5.0	4.9	4.7	4.8
Pupils who left the special schools for handicapped children	3.8	2.9	2.7	2.5	2.4	2.4	2.5
Pupils who left the school system at the end of the period of full-time compulsory schooling, with the certificate awarded at the end of compulsory schooling	39.6	35.3	34.3	33.4	32.1	31.6	30.1
Holders of the certificate awarded after the first stage of secondary education and similar certificates	33.2	34.8	35.8	36.5	36.9	36.5	36.3
Holders of the technical baccalaureate	0.5	0.6	0.6	0.6	0.6	0.6	0.7
Holders of the general baccalaureate	15.7	20.4	21.0	22.0	23.1	24.2	25.6
Total number of pupils who left the school system	100	100	100	100	100	100	100

a/ Not including the special schools for handicapped children.

Table 2

Pupils who left the comprehensive and the vocational schools, holding a general or technical baccalaureate
(percentage)

Type of qualification required for entry to higher education	1980	1983	1984	1985	1986	1987	1988
Holders of a general baccalaureate (total)	76.0	74.5	75.7	77.3	77.0	76.1	74.6
- from a comprehensive school	70.0	67.9	68.9	70.3	70.6	69.7	67.8
- from a vocational school a/	6.0	6.6	6.8	7.0	6.4	6.4	6.8
Holders of a technical baccalaureate (total)	24.0	25.5	24.3	22.7	23.0	23.9	25.4
- from a comprehensive school	2.0	2.1	2.1	2.0	2.0	1.8	1.9
- from a vocational school a/	22.0	23.4	22.2	20.7	21.0	22.1	23.5
Total number of pupils who holding a general or technical baccalaureate	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Proportion of the German and foreign resident population							
Holders of the general baccalaureate	17.0	21.3	21.3	21.5	21.4	21.6	22.2
Holders of the technical baccalaureate	5.4	7.3	6.9	6.4	6.4	6.8	7.6
Total number of pupils who hold the general or technical baccalaureate	22.4	28.6	28.3	27.9	27.8	28.4	29.8

Sources: Statistical publications of the Standing Conference of the Ministers of Education and Culture Länder of the Federal Republic of Germany (Statistische Veröffentlichungen der Kulturministerkonferenz) Doc. No. 109, November 1989.

a/ Including full-time institutions for adults studying for the North Rhineland-Westphalia baccalaureate.

H. Establishment of an adequate scholarship system

30. Education is free in all the public schools and universities of the Federal Republic of Germany. In addition, pupils being trained in the technical and vocational establishments at the secondary level (in other words, pupils in the vocational secondary schools and the technical secondary schools who have completed vocational training, as well as pupils in the technical colleges and the vocational training schools, who will obtain a diploma qualifying them for a particular occupation) receive financial assistance during their training, under the Federal Training Assistance Act (BAFöG). This assistance is also granted to students in advanced vocational schools who hold a vocational certificate and to students taking evening courses or full-time courses for adults within the framework of the so-called "second chance" education scheme, to enable them to prepare for the baccalaureate. Similarly, students at the level of higher education are entitled, under certain conditions, to receive financial assistance from the State, under the above-mentioned Act (one half of this assistance is granted as a scholarship and the other half as a loan). This financial assistance is granted for the duration of the period in which the training can usually be completed, provided that the resources (income and assets) of the student and of those responsible for him do not cover the needs of the person being trained. In most of the Länder there are other special regulations under which additional assistance is given to students attending a comprehensive or vocational school at the secondary level. These measures are all intended to enable the students to take advantage of the many educational and training opportunities that are offered to them and to remove any financial obstacles which might prevent them from exercising the right to education.

I. Improvement of the material conditions of teaching staff

31. Teachers in the Federal Republic of Germany are, as a rule, civil servants of the Land administration. Their financial status, which includes their remuneration, is governed by the relevant civil service legislation and is regularly adjusted to take account of changes in the cost of living. In comparison with those of other professional categories, the material conditions of teachers may therefore be regarded as fairly secured.

32. Further training and continuing education, which are partly compulsory for teachers, and the participation of teachers and their associations in the formulation of educational plans and the settlement of other educational issues, are covered in paragraphs 34 to 36 of the initial report of the Federal Republic of Germany.

J. Right to choice of school

33. In the Federal Republic of Germany, the right to establish private schools is guaranteed by the Basic Law. Furthermore, the fundamental rights include the right of parents freely to choose the education that they wish to give to their children; parents also have the freedom to choose their children's school, which may be a private one. However, the private school which children of school age may attend must be one approved by the State as replacing a public school. The State recognition requirement is designed to ensure that children are taught only by qualified teachers and that the educational objectives laid down for the State schools are observed.

34. Private schools are granted substantial financial assistance by the State. This assistance is granted only on condition that the school accepts children from all classes of society, irrespective of the income of their parents.

35. In some of the Länder, it is not only possible to establish private schools, but it is also possible to run State schools as denominational schools, provided that this is requested by a sufficiently large number of parents. This applies, however, only to primary schools, attendance at which is compulsory for all children and to upper primary schools (Hauptschulen), which are compulsory for those children who do not attend any other type of secondary school.

K. Liberty to establish and direct educational institutions

36. As stated earlier, the right to establish private schools is guaranteed by the Basic Law and the Land Constitutions. The relevant provisions are contained in the legislation of the Länder governing private schools. The following extract from the Land of Baden-Württemburg law of 19 February 1990 concerning education in private institutions may be quoted as an example:

> "Article 1. Under the Basic Law of the Federal Republic of Germany and the Constitution of the Land of Baden-Württemburg, schools which are administered by private institution serve a public function of contributing to education in the Land as establishments replacing or complementing the public schools. They serve to widen the range of schools that may be freely chosen and, by offering specific contents and forms of education and training, they make a positive contribution to education.
>
> Article 2. Schools which are administered by private institutions may be established and directed by individuals or by private or public law corporations".

II. ARTICLE 14: PRINCIPLE OF COMPULSORY EDUCATION, FREE OF CHARGE FOR ALL

37. As stated above, in the Länder of the Federal Republic of Germany, school and university education is free of charge. Since public education is free, tuition fees may be charged by a private school only if they "do not encourage discrimination among the pupils, based on the financial situation of the parents".

III. ARTICLE 15. THE RIGHT TO TAKE PART IN CULTURAL LIFE, TO ENJOY THE BENEFITS OF SCIENTIFIC PROGRESS AND TO BENEFIT FROM THE PROTECTION OF THE INTERESTS OF AUTHORS

A. The right to take part in cultural life

38. Active participation in artistic and cultural life by the greatest possible number of people and the removal of any obstacles to such participation are among the main objectives that a democratic society may seek to achieve in the cultural and educational sphere. The primary objective -

besides respect for artistic freedom, which is a fundamental right guaranteed by the Constitution - is to contribute, through suitable incentives, to the protection and preservation of the cultural heritage and to nurture and develop the creative forces in society, while encouraging and facilitating civic participation in cultural life. Art and culture become a part of the social fabric only if they are integral parts of overall education - hence the indissoluble link between education and culture. The decision to take part in cultural life must be taken by each individual. In a free society, cultural forces must first of all develop independently and fully appreciate their specific responsibility. However, a diverse and varied range of cultural activities is encouraged by the authorities, and culture is also the prime beneficiary of the favourable conditions created by the Federal structures and by the commitment to culture of the municipalities.

B. The right to enjoy the benefits of scientific progress and its applications

39. Freedom to pursue scientific research and freedom to disseminate its results are guaranteed by the Basic Law of the Federal Republic of Germany and are protected by both the juridical and practical structure of research in the Federal Republic. The Republic is internationally acknowledged to be one of the most advanced nations in the world in the field of research; this is true as regards both public and private expenditure on research and recognition of the high level achieved in all the basic disciplines. Considerable importance is attached to measures to promote a healthy and unpolluted environment. The observations made in the first report (E/1982/3/Add.14) are still valid. The Federal Republic of Germany is a member of all the major multilateral research organizations, including those of the United Nations system. It has entered into bilateral intergovernmental agreements on technical and scientific cooperation with over 40 States, thus actively contributing to international exchanges in all spheres of research and technology.

C. Protection of the moral and material interests of authors

40. As was indicated in the initial report (E/1982/3/Add.14), the Federal Republic of Germany discharges its obligation under article 15, paragraph 1 (c), of the Covenant to recognize the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author. The goal of future legislation is to maintain the level of protection provided by German intellectual property law. There are fields in which technical progress may infringe the rights of an author to receive a fair share of the benefits deriving from the use of his intellectual property. Methods used to reproduce works covered by intellectual property rights are constantly being improved and new ones are under development. Thus, the German Parliament has invited the Federal Government closely to monitor developments in order to ascertain whether the rights of authors are likely to be jeopardized and to present, every three years, a report on the repercussions of technological progress on authors' copyright and similar rights and to propose, if appropriate, suitable measures to protect the economic aspects of intellectual property rights.

D. Measures adopted to ensure the maintenance, development and dissemination of science and of culture

41. Cultural policy in the Federal Republic of Germany is highly decentralized; it is first and foremost the responsibility of the Länder and of the municipalities and only to a limited extent of the Federal State.

42. Pursuant to the Constitution of the Federal Republic of Germany the Länder are responsible for all the functions of government and for the performance of governmental tasks that the Basic Law has not vested in or entrusted to the Federal State. With the exception of foreign cultural policy, which is part of foreign affairs, the Federal State plays only a limited role in the cultural sphere; this includes protecting the German cultural heritage from transfer abroad, preserving the Prussian cultural heritage, intellectual property rights and, at the interface between industry and culture, activities for the promotion of the film industry. In addition, the Federal State plays a limited role by providing supplementary financing for a number of cultural activities. In accordance with the Basic Law, municipalities are empowered to administer all matters of local interest within the framework of the relevant laws and under their own responsibility. Traditionally, municipalities have availed themselves of this possibility and demonstrated a considerable degree of commitment to culture. Moreover, the Constitutions of several Länder stipulate that in addition to the State, municipalities are also responsible for encouraging art and for the promotion of culture.

43. Thus, in 1987, approximately 60 per cent of public expenditure on culture was met by municipalities, approximately 35 per cent by the Länder and some 5 per cent by the Federal State. In that year public expenditure on art and culture amounted to some DM 9 billion, i.e., a per capita expenditure of DM 145, and virtually 0.9 per cent of total public expenditure. After having accounted for approximately 0.8 per cent of public expenditure for many years, a rise in public expenditure on culture has been discernible since 1985, in spite of the strain on the public purse caused by the deterioration in the economic situation. This fact itself demonstrates the higher potential ranking of culture within the hierarchy of governmental concerns. The Federal Government and the governments of the Länder are both convinced of the prime importance of the development of the State's cultural activity and of the development of the rule of law and the social dimension of the State.

44. The expenditure goes towards maintaining, developing and expanding cultural institutions and activities and is thus a means of promoting the active involvement of each citizen in cultural life. Socio-cultural activities, whose prime objective is to facilitate access to art and to culture, by lowering or overcoming the reluctance and hesitation of people attracted by culture, are of particular importance.

45. In Germany public funds are traditionally used to develop and promote culture in two different but complementary ways: (a) for State and municipally owned cultural institutions; (b) for subsidies and support for private institutions and community activities. This is also true in the sphere of the arts.

46. In the Federal Republic, cultural pluralism (that is, a broad and varied offering of cultural activities) is facilitated by the decentralized structure of the country, which makes it possible for a large number of cultural institutions and bodies to work side by side, independent of each other. This has resulted in a great cultural diversity, which is illustrated by the fact that there are a large number of different regional theatres (280), museums (1,840) and libraries (approximately 11,400).

47. As far as the stage (plays and musical productions) is concerned, public institutions are in the forefront, although almost all private theatres also receive public subsidies. As regards music, the sector comprising professional musicians or musicians funded by private bodies or individuals is far larger than the theatre sector; nevertheless, the State, municipalities and the public broadcasting agencies maintain almost 100 major orchestral ensembles. There are many public music colleges and academies as well as a Federal network of music schools maintained by the municipalities and municipal associations for young people. Moreover, music-making and musical education benefit from a variety of forms of public assistance ranging from subsidies for associations of music enthusiasts to the fostering of outstanding talent through musical competitions and scholarships. As far as the plastic arts are concerned, in addition to the establishment of arts colleges, official measures of encouragement include the purchase of works for public and municipal art collections, the commissioning of works of art by the authorities, scholarships for artists and art prizes. In addition, artists are granted tax relief and there is a State sponsored sickness and retirement fund for artists. In addition, outstanding and needy artists benefit from the German fund for artists (Deutsche Künstlerhilfe) jointly financed by the Federation and the Länder.

48. Artistic and cultural education has also gained increased importance at the Federal level. The subjects taught, the educational system and the teaching methods employed lay the foundations of peoples' perception, understanding, enjoyment of and active participation in art and culture. Accordingly, the Federal Government has constantly intensified its efforts in the cultural sphere and has contributed to integrating cultural education as a cornerstone of promotion in the activities of the joint Federal and Länder Commission for educational planning and the promotion of research. We may cite a number of examples. Museums are currently being planned or built in Düsseldorf, Munich, Mannheim and Cologne. In Bonn alone, a large municipal art museum, a Federal art exhibition hall and a building to commemorate the history of the Federal Republic of Germany are under construction.

49. In recent years all the Länder in the Federal Republic of Germany have adopted new laws on protection of historic monuments: this testifies to the development of an awareness of the value of the architectural heritage and of the need to preserve it. Since 1975, it has been possible considerably to increase the amount spent by the Länder on the protection of monuments, and in 1987 such expenditure totalled approximately DM 414 million. This figure includes neither the additional funds set aside by the Federal State, the Länder and the municipalities for the reconstruction of national monuments, and for renovation projects and specific programmes, nor funds provided by the churches and by private donors.

50. The first sentence of article 5, paragraph 3, of the Basic Law guarantees artistic freedom in the Federal Republic of Germany. In the view of the Federal Constitutional Court, this freedom extends both to artist and performers. This fundamental right is an essential norm in establishing cultural values and represents the commitment of the State, which also assumes its cultural responsibilities, pursuant to which the development and promotion of art are inherent objectives of the State.

51. Mention should also be made of efforts to improve the situation of artists, irrespective of the guarantee of the freedom of art. Thus, the Copyright Act was amended and now provides that an author's fee is payable by public libraries (that is, from public funds) to marketing companies for the benefit of authors (in 1987, about DM 14 million). Moreover, numerous incentives for the motivation and creativity of artists are given in the form of private and public awards.

E. Freedom for scientific research and creative activity

52. Since there is a close link between this right and the right to enjoy the benefits of scientific progress and its applications, the reader should refer to section B above (para. 39).

F. The encouragement and development of international contacts and cooperation in the scientific and cultural fields

1. International contacts

53. The numerous international contacts described in the initial report (E/1982/3/Add.14) have been further developed and intensified.

2. Principles governing Germany's cultural policy abroad

54. The cultural policy pursued abroad by the Federal Government is a form of international cultural cooperation. It seeks to cast culture and science in a key role within cooperation and dialogue among States and peoples. As was mentioned in the initial report, the cultural policy pursued abroad, which is based on the constitutionally guaranteed freedoms of research, teaching, culture, information and on the free encounter between people is based on the principle that all cultures are of equal value and that culture itself is essential to ensure that peace and justice prevail in the world.

55. In all spheres of international cultural relations, traditional bilateral cooperation was complemented, during the period covered by the report, by intensified multilateral activities focusing on UNESCO, CSCE, the Council of Europe and the European Community. The thrust of Germany's external cultural policy, which is increasingly based on the principles of exchange, dialogue and partnership, is reflected in a large number of new programmes, such as assistance for performances and for culture budgets, which help to promote the presentation of foreign cultures in the Federal Republic of Germany and to preserve vestiges of the cultural heritage abroad. Thanks to the "Home for the World's Cultures" (Haus der Kulturen der Welt) in Berlin, a permanent centre has been established where the dialogue with non-European cultures in particular may take place in Germany itself.

56. Virtually half of the funds allocated to the cultural budget of the Ministry of Foreign Affairs is earmarked for countries in Asia, Africa and South America and is mainly used for training. In addition, the external cultural policy assumes special responsibility for the cultures of small peoples and national minorities. In accordance with the federal and pluralistic system of the Federal Republic of Germany, the cultural policy pursued abroad is based on cooperation between the Federal State, the Länder, municipalities, intermediate institutions and the relevant private bodies. The legal provisions relating to intermediate cultural institutions afford them a considerable decree of autonomy to organize their programmes.

57. The conceptual framework within which the German language is promoted abroad and the framework for German schools abroad were defined by the report by the Federal Government on the German language throughout the world, which was submitted in 1985, and by the recommendations made in 1986 by the German Parliament regarding policy in respect of the German language and by the report of the Federal Government on the situation and development of German schools abroad, which was presented in 1987.

3. Cultural institutions and societies

(a) Activities of the Goethe Institute

58. The Goethe Institute, already described in the initial report, has its headquarters in Munich. At the end of 1989 it had 150 branch offices in 69 countries and 16 institutes in the Federal Republic of Germany. Political developments in Europe since the mid-1980s have created the necessary conditions for extending the network of branch offices, particularly in the States of central and eastern Europe. Apart from their work in teaching German, it is the Goethe Institutes that are primarily responsible for cultural programmes abroad, covering not only literature, language, music, painting, film and architecture, but also the whole of intellectual life, and thus specifically including education, science, research, and contacts, either personal or through the communications media. Within this "extended concept of culture", cooperation with partners abroad at the design and organizational level play a decisive role. In 1989 the Federal Republic of Germany allocated nearly DM 255 million to the Goethe Institute to finance its programmes and administrative costs.

(b) Activities of the German-foreign cultural societies

59. The manifold activities and cultural programmes of the German-foreign cultural societies, which number some 120 and are supported by the Ministry for Foreign Affairs, supplement the activities of the Goethe Institute. Allocations in the 1989 Federal budget for this item totalled DM 3.6 million.

IV. ADDITIONAL COMMENTS ON ARTICLES 1 TO 5 OF THE COVENANT

60. The principles enunciated in articles 1 to 5 of the Covenant are to a large extent covered under the various articles in part III. The following explanations are therefore additional.

A. The right of self-determination (article 1)

61. The third periodic report of the Federal Republic of Germany submitted in 1988 pursuant to article 40 of the International Covenant on Civil and Political Rights (CCPR/C/52/Add.3), to which the reader is referred, notes inter alia that the right of self-determination is a universal right by virtue of which peoples freely determine their political status and freely pursue their economic, social and cultural development. The right of self-determination requires a permanent process involving the development of a social order, the definition of economic, social and cultural values and the choice of government by means of free periodic elections. In addition, the comments in the initial report of the Federal Republic of Germany on articles 13 to 15 of the International Covenant on Economic, Social and Cultural Rights (E/1982/3/Add.4, chapter IV) remain completely valid.

B. Ban on discrimination (article 2, paragraph 2)

1. The treatment of foreigners in general

62. The ban on discrimination is set out in articles 1 to 3 of the Basic Law. It includes a ban on racial discrimination which derives from the basic right to human dignity enunciated in the Constitution. The prohibition of discrimination is given further practical effect by article 3 of the Basic Law, which is one of the foundations on which all action of the State is based: paragraph 1, dealing with this basic right, provides that all persons shall be equal before the law. In accordance with article 3, paragraph 3, of the Basic Law, no one may be prejudiced or favoured because of his sex, parentage, race, language, homeland and origin, faith or religious or political opinions. In its tenth periodic report submitted in 1989 under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/172/Add.13), the Federal Republic of Germany described in detail the protection of minorities; a special section dealt with measures to combat racial prejudices at school (paras. 61 to 68).

2. The integration of the second and third generations of foreigners

63. The integration of migrant workers and their family members is one of the foremost policy objectives of the Federal Republic of Germany with regard to foreigners. In recent years great progress has been made in integrating young foreigners. Almost three quarters of foreign children now succeed in acquiring a school-leaving certificate. There has also been a continuous increase in the numbers of young foreigners entering vocational training, although compared with young Germans of the same age they still need a considerable amount of extra tuition. Without successful integration into employment and a trade or occupation, there can never be lasting integration into society. Tables 3, 4 and 5 contain statistics showing the progress made during the period under consideration. For integration to succeed, it is essential to establish close coordination between the public and private bodies that work for foreigners: this is ensured in some cases by coordination bodies.

3. The Danish minority in the Land of Schleswig-Holstein

64. As far as education for persons belonging to the Danish minority is concerned, there has been no change since the submission, in 1982, of the initial report, to which the reader is referred (E/1982/3/Add.14, paras. 95 to 98). In the period under consideration the special committee responsible for the reform of the Constitution and of the Parliament recommended that a second paragraph should be added to article 5 of the Constitution of the Land of Schleswig-Holstein, placing the cultural independence and political participation of national minorities and ethnic groups under the protection of the Land, the municipalities and the associations of municipalities and safeguarding the right to protection and advancement of the Danish national minority and Frisian ethnic group. Implementation of that recommendation would strengthen Schleswig-Holstein's policy on the frontier zone and minorities and take into account the unique historic situation and the way in which the Danish minority and Frisian ethnic group have developed culturally, socially and politically. The recommendations made on the subject of article 5 are a deliberate and intentional development in relations between the majority and the minority in the Land of Schleswig-Holstein and are evidence of the special responsibility assumed by the majority for national minorities and ethnic groups.

65. During the 1989 budgetary period assistance from the Land of Schleswig-Holstein to the cultural activities of the Danish minority totalled some DM 1,052,600,000. The principal cultural organization of the Danish minority is the Association of South Schleswig-Holstein (Südschleswigischer Verein-SSV), which has nearly 18,000 members and is subdivided into some 135 districts, all of which are independent. These districts are grouped into a local union for the town of Flensberg, and six regional unions. Associated with them is the Foriining for nationale friiske, an organization which has some 1,000 members. In order to coordinate activities in the various fields, several committees have been established: a theatre and concert committee; a committee responsible for the annual meeting; a lectures and entertainment committee; and a committee responsible for humanitarian activities.

66. A wide range of cultural activities (such as touring productions with Danish actors, exhibitions, concerts, readings, lectures and Danish films) is held for the Danish minority. The annual meetings are the climax of the cultural life of the Danish minority. The association SSV runs, inter alia, many homes and clubs, the "Husumhus" cultural centre in Husum, a country house in Tonning for pupils from Danish schools both north and south of the frontier, and the "Danewirkegarden" museum near Schleswig. The Südschleswigsche Pressedienst press service, organized by the SSV, provides information for the Danish and German press on the activities of the Danish and Frisian population.

Table 3

Persons undergoing training (by nationality)

	Persons of foreign nationality undergoing training								Total number of persons undergoing training
	Total on Federal territory	by nationality							
		Greece	Italy	Yugoslavia	Portugal	Spain	Turkey	Other nationalities a/	
1983 Number	45 195	2 987	6 011	5 059	1 259	2 734	19 717	7 427	1 722 400
Percentage b/	2.62	0.17	0.34	0.29	0.07	0.15	1.14	0.43	100
1984 Number	49 175	3 156	6 372	5 661	1 314	2 831	20 777	9 064	1 800 100
Percentage b/	2.73	0.18	0.35	0.31	0.07	0.16	1.15	0.50	100
1985 Number	51 396	3 272	6 825	6 435	1 429	2 973	21 664	8 798	1 831 300
Percentage b/	2.81	0.18	0.37	0.36	0.08	0.16	1.18	0.48	100
1986 Number	57 319	3 573	7 425	7 347	1 660	3 226	24 622	9 476	1 805 200
Percentage b/	3.18	0.20	0.41	0.41	0.09	0.18	1.36	0.52	100
1987 Number	63 625	3 825	8 271	8 375	1 841	3 109	27 676	10 529	1 738 700
Percentage b/	3.65	0.22	0.48	0.48	0.11	0.18	1.59	1.61	100
1988 Number	73 198	4 241	9 196	10 407	2 023	3 259	32 435	11 637	1 658 000
Percentage b/	4.41	0.26	0.55	0.63	0.12	0.20	1.96	0.70	100
1989 Number	83 646	4 586	9 685	13 120	2 038	3 119	37 709	13 389	1 552 500
Percentage b/	5.39	0.30	0.62	0.85	0.13	0.20	2.43	0.86	100

Source: Secretariat of the Standing Conference of the Ministers of Education and Culture of the Länder of the Federal Republic of Germany, Foreign School Leavers 1980-1988 (Ausländische Schüler und Absolventen) Document No. 111, January 1990.

a/ Including persons of unspecified nationality.

b/ Percentage of the total number of persons undergoing training.

Table 4

Foreign pupils having followed different cycles of study, according to type of school leaving certificate (for the whole of the Federal territory)

Comprehensive schools

	1983	1984	1985	1986	1987	1988
Type of school:						
Total pupils leaving	49 920	53 732	53 419	55 110	59 991	62 555
of whom:						
Pupils leaving at the end of full-time compulsory schooling, with certificate of completion of compulsory schooling	23 729	26 106	26 130	27 022	29 017	29 668
Holders of the first cycle secondary school certificate or similar	7 092 a/	8 387 a/	9 942	11 429	13 254	14 850
Holders of the technical baccalauréate	100	108 b/	115	139	144	199
Holders of the general baccalauréate	1 794 a/	2 109 a/	2 883	2 886	3 570	3 698

Source: Secretariat of the Standing Conference of the Ministers of Education and Culture of the Länder of the Federal Republic of Germany, Foreign School Leavers 1980-1988 (Ausländische Schüler und Absolventen), Document No. 111, January 1990.

a/ Excluding Bavaria.

b/ Excluding Baden-Württemberg.

Table 5

Foreign pupils leaving the school system

Vocational training establishments

	1984	1985	1986	1987	1988
All types of school	43 642 a/	46 210 a/	48 972	48 792	51 685
Vocational schools b/	20 985 c/	24 833 c/	27 072	27 800	28 986

a/ Excluding Schleswig-Holstein.

b/ Vocational schools are schools which are generally attended during training in the dual system, in which training alternates between the enterprise and the school.

c/ Excluding Bavaria.

B. Equal treatment of men and women (article 3)

67. Equality of men and women is guaranteed under article 3, paragraphs 2 and 3, of the Basic Law. Men and women have the same rights. No one may be prejudiced or favoured because of his or her sex. Considerable efforts have been made, in particular in the field of education and training, to ensure effective equality of treatment for women beyond the equality under the law which already exists in any case.

68. The Federal Government ratified the Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979. In March 1988 it submitted to the United Nations its first report on measures taken to implement that Convention; a supplementary report submitted in January 1990 contained a large number of comments on equality of treatment between men and women in the area of education, in the world of work and in cultural life (implementation of articles 10, 11 and 13 of the Convention).

69. Table 6 contains a selection of statistics on training and diplomas, classified by sex.

Table 6

Selected stuctural data on the basis of distribution between males (M) and females (F) in 1989 (percentages)

1. Population between the ages of 6 and 25: M 51, F 49.

2. Population group a/ with certificate of completion of compulsory schooling: M 51, F 49.

3. Population group a/ with secondary school-leaving certificate (first cycle): M 43, F 57.

4. Population group a/ with general baccalaureate: M 61, F 39.

5. Population group a/ with certificate of vocational proficiency: M 52, F 48.

6. Population group a/ with advanced vocational diploma: M 76 F 24.

7. Population group a/ with higher educational diploma: M 66, F 34.

8. Pupils who leave the school system with the certificate of completion of compulsory schooling: M 56, F 44.

9. Pupils who leave the school system with secondary school-leaving certificate (first cycle): M 47, F 53.

10. Pupils who leave the school system with general baccalaureate: M 54, F 46.

11. Persons who have passed an examination on completion of an apprenticeship in commercial occupations: M 32, F 68.

12. Persons who have passed an examination on completion of an apprenticeship in industrial occupations: M 69, F 31.

13. Teachers on the permanent staff of comprehensive schools: M 44, F 66.

14. Teachers on the permanent staff of technical or vocational education establishments: M 69, F 31.

15. Students enrolled in higher education establishments: M 62, F 38.

16. Newly enrolled students at higher education establishments: M 60, F 40.

17. Students who have passed final examinations at a university: M 63, F 37.

18. Students who have passed final examinations at a higher technical training establishment: M 69, F 31.

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a/ Age group 25 to 60

19. Students who have obtained a teaching diploma on completion of a university course: M 34, F 66.

20. Students who graduate with a doctorate: M 74, F 26.

21. Professors with a chair at a higher education establishment: M 95, F 5.

22. Assistant lecturers at higher education establishments: M 86, F 14.

23. Members of scientific staff at higher education establishments: M 80, F 20.

24. Persons with state teaching degree: M 91, F 9.